

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

WILLIAM L. MEANS,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-06-1137-HE
)	
ROBERT LAMBERT, ET AL.,)	
)	
Defendants.)	

ORDER

Plaintiff William Means, a state prisoner, instituted this action pursuant to 42 U.S.C. § 1983, suing for alleged violations of his religious rights. Defendants Correctional Corporation of America (“CCA”), John Ferguson, Fred Figueroa, Brent Crouse, and Dwayne Wright moved for dismissal. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Robert E. Bacharach, who recommended that the motion to dismiss be granted in part and denied in part.

The Magistrate Judge recommended that the motion to dismiss be granted as to: (1) the plaintiff’s claims for failure to prevent or correct violations and conspiracy, due to non-exhaustion of administrative remedies; (2) the claim for failure to respond to written complaints as the plaintiff conceded it was unsupportable; (3) the negligence claim because negligence is not a basis for § 1983 liability; (4) the claims against CCA, as the plaintiff did not allege an unconstitutional policy on the part of CCA; and (5) the claims against Mr. Ferguson because the plaintiff did not allege facts showing an affirmative link between a constitutional deprivation and Mr. Ferguson’s actions or inactions. The Magistrate Judge recommended that the motion be denied as to the plaintiff’s request for emotional distress

damages.


While the plaintiff and the defendants have filed objections to the Report and Recommendation, neither has made any specific objections. Having failed to make a specific objection to the Report and Recommendation, the plaintiff and the defendants have waived further review of the factual and legal issues it addressed. *See Soliz v. Charter*, 82 F.3d 373, 375-76 (10th Cir. 1996) (“Plaintiff’s general objection ... is not sufficient to preserve the more specific issues plaintiff attempts to raise on appeal.”); *United States v. One Parcel of Real Property*, 73 F.3d 1057, 1060 (10th Cir. 1996) (“[A] party’s objections to the magistrate judge’s report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.”). The court has also considered the merits of the motion and substantially concurs with the Magistrate Judge’s analysis.

Accordingly, the court **ADOPTS** the Report and Recommendation [Doc. # 78] and **GRANTS IN PART** and **DENIES IN PART** the defendants’ motion to dismiss [Doc. # 46]. The motion is **GRANTED** as to the plaintiff’s claims for failure to prevent or correct violations, failure to respond to written complaints, conspiracy, and negligence, and the claims against CCA and against Mr. Ferguson. These claims are **DISMISSED** without prejudice. The motion is **DENIED** as to the plaintiff’s request for emotional distress damages.

This order does not terminate the referral to Magistrate Judge Bacharach.

IT IS SO ORDERED.

Dated this 28th day of December, 2007.



JOE HEATON
UNITED STATES DISTRICT JUDGE

